

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

**CHARITY CHIDINMA
EMERONYE SWIFT,**

Plaintiff,

v.

**FRONTIER AIRLINES, INC. (a Colorado
corporation), and JANE DOE,**

Defendants.

Civil Action No. 1:14-CV-1139

**Hon. Judge Liam O’Grady
Hon. Magistrate Judge Ivan D. Davis**

**FRONTIER AIRLINES, INC.’S MOTION TO DISMISS
COUNTS III & IV OF PLAINTIFF’S COMPLAINT**

Defendant Frontier Airlines, Inc. (“Frontier”), pursuant to Federal Rule of Civil Procedure 12(b)(6), moves this Court to dismiss Counts III (intentional infliction of emotional distress) (“IIED”) and IV (defamation) of Plaintiff’s Complaint.

As detailed in the accompanying memorandum of law, Plaintiff’s IIED and defamation claims fail because the alleged emotional injuries and defamatory statements are insufficient to state a cause of action as a matter of law.

First, Plaintiff’s conclusory allegations that she had suffered “mental anguish and suffering, humiliation, shame, shock, degradation, nightmares and sleeplessness” fail to satisfy the “severity” element of an IIED claim, and the alleged conduct at issue is not sufficiently “outrageous or intolerable” under Virginia law.

Second, the purported statements by the gate agent telling Plaintiff that she would call airport security if she did not pay the \$25.00 baggage are not defamatory as a matter of law.

When reviewed in the actual context in which they were made, these statements cannot reasonably be understood to assert that Plaintiff had committed a crime involving moral turpitude, nor was there anything false about these statements, by innuendo or otherwise. Truth is an absolute defense.

For these reasons, dismissal of Counts III and IV of Plaintiff's Complaint with prejudice is warranted.

Dated: October 22, 2014

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that, on October 22, 2014, I served the following via U.S. Mail, postage prepaid, and via electronic case filing:

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